

TITLE 14. Fish and Game Commission Notice of Proposed Changes in Regulations

**(Continuation of California Notice Register 2003, No. 42-Z,
California Notice Register 2003, No. 46-Z,
and Meetings of October 3 and December 5, 2003.)**

(NOTE: See Updated Informative Digest changes shown in bold face type.)

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 1050 and 8282 of the Fish and Game Code and to implement, interpret or make specific sections 1050, 8275, 8282, 8284, 9000, 9001, 9002, 9003, 9004, 9005, 9006, 9007, 9008, 9011, and 9012 of said Code, proposes to add Section 125, Title 14, California Code of Regulations, relating to the commercial take of rock crab.

Updated Informative Digest/Policy Statement Overview

A person must have a commercial fishing license, a general trap permit, and use a vessel that is commercially registered to participate in the commercial rock crab trap fishery. The proposed regulatory action would create a rock crab trap permit requirement beginning April 1, 2004. It would also establish initial issuance criteria based on prior catch history, and place a moratorium on the issuance of new permits after October 31, 2004. A control date is also proposed to provide for other limits on future participation if necessary. A fee is proposed for the annual permit. Only one individual aboard a vessel trapping rock crab would be required to have the rock crab trap permit in addition to the individual's general trap permit. Other licensed fishermen assisting in the take of rock crab would still need a commercial fishing license and a general trap permit. The permit application process and appeal and renewal processes are also specified in the proposed regulations. **Permitted lobster fishermen taking rock crab incidentally pursuant to Section 8250.5 and any vessel operating or having on board a trawl or drag net which takes rock crab incidentally pursuant to Fish and Game Code Section 8834 are not required to have a commercial rock crab trap permit.**

The Department is proposing that a rock crab trap permit may be issued to any licensed commercial fisherman who has a general trap permit, and who has landed a minimum number of pounds of rock crab during a specified time period as documented by fish landing receipts submitted to the department in the individual's name and commercial fishing license identification number. A range of minimum catch levels and time periods are provided from which the Commission may select. A minimum of 0 to 2,000 pounds must have been landed in any single calendar year between 1998 and 2002, or the participant must have cumulatively landed a minimum of 0 to 2,000 pounds in the 1998 through 2002 time period.

The range of 0-2000 pounds over the 5-year window period or in a single calendar year was chosen to provide the Commission alternatives from which a selection could be made on the composition of the future fleet once the entire industry has been notified and provided input. This range would allow the Commission to choose either a specific performance standard in a single year to measure participation, or alternatively, determine a level of participation over an extended recent time period. The tables below provide a summary of the range of

options and anticipated qualifiers under various performance scenarios based on evaluation of the Department's commercial rock crab landings data.

Rock Crab Commercial Catches Over the 1998-2002 Window Period

Five-Year Cumulative Catch	Number of Individuals
2,000 pounds or more	146
1,000 pounds or more	189
750 pounds or more	200
500 pounds or more	241
250 pounds or more	300
200 pounds or more	314
100 pounds or more	368
50 pounds or more	414
1 pound or more	536

Rock Crab Commercial Catches in a Single Year During 1998-2002 Window Period

Single-Year Catch	Number of Individuals
2,000 pounds or more	140
1,000 pounds or more	170
750 pounds or more	181
500 pounds or more	223
250 pounds or more	286
200 pounds or more	303
100 pounds or more	359
50 pounds or more	410
1 pound or more	536

Applicants are required to submit a commercial rock crab trap permit application form DFG 1324(9/03) along with the required fee. The Department is proposing an annual fee for the rock crab trap permit of \$50 to \$250. Funding will be required in order to implement the proposed permit system, track fishery landings, enforce the new regulations, staff appeal hearings, and review the program to determine if any modifications are needed. Based on estimates provided by the Department's Marine Region, License and Revenue and Enforcement Branches, minimum annual costs of the program may be estimated at \$110,000.

Control date options from January 1, 2000 through March 31, 2003 were provided by the Department to the Commission to allow for industry input. Selecting a date of March 31, 2003 would give consideration to any fisherman who participated in the prior fishing season or earlier. Selecting a date of January 1, 2000 would acknowledge participation only by those in the fishery at or before the time that fishery representatives went to the Commission and formally requested that no new participants be allowed in the fishery.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in Long Beach, California, on Friday, February 6, 2004 at 8:30 a.m., or as soon thereafter as the matter may be heard. Please call the Commission office at (916) 653-4899 for the exact location of the meeting. (The Commission normally adopts its meeting schedule for the upcoming year at its November meeting. Due to the fires in the San Diego area, the Commission had to cancel its November 6-7, 2003 meeting, postponing adoption of the 2004 meeting schedule until December 4. Commission staff has not been able to confirm the exact location of the meeting at the time of submitting this notice.) It is requested that written comments be submitted on or before January 30, 2004 at the address given below, or by fax at (916) 653-5040, or by e mail to FGC@dfg.ca.gov, but must be received no later than February 6, 2004 at the hearing in Long Beach, CA. E-mail comments must include the true name and mailing address of the commentor.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Robert R. Treanor, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to Robert R. Treanor or Sherrie Koell at the preceding address or phone number. Eric Larson, Ecosystem Coordinator, Department of Fish and Game, phone (650) 631-6788, 350 Harbor Blvd., Belmont, CA 94002, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at http://www.dfg.ca.gov/fq_comm/.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Each permittee, buyer, and processor is considered a small

business. The proposed permit program would cause some fishermen who have participated in the fishery in the past on a limited and sporadic level to lose some potential income if the initial issuance criteria selected requires a level of prior participation that has not been met. As the ex-vessel value of rock crab is \$1.30 to \$2.00 per pound, with prior catch history of 1,000 pounds over the five year window period, a maximum future loss might be estimated at between \$1,300 and \$2,000 per person over a five-year time period if that individual was to repeat the prior performance level and the Commission were to select a minimum catch history of 1,000 pounds for initial permit issuance. It is thought that since these individuals do not derive a significant portion of their income from this fishery, the economic impact would not be significant to those that may not qualify for initial permit issuance.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.

- (c) Cost Impacts on a Representative Private Person or Business:

Each individual who seeks to purchase a rock crab trap permit and meets the selected initial issuance criteria may purchase a permit at a cost of [\$50 - \$250]. The permit may be renewed annually at the selected fee level. This funding is needed to offset program costs, including funds needed to implement the initial permit program, track landings, enforce the new regulations, staff appeal hearings, review the program and develop any additional modifications to the program or develop other management strategies that may be needed once the program is implemented. See Section III (a) of the Initial Statement of Reasons for additional information.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.

- (f) Programs Mandated on Local Agencies or School Districts: None.

- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.

- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Dated: December 9, 2003

Robert R. Treanor
Executive Director